IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 21315 of 2000

Between:

Smt.Ch.Kusuma Kumari, W/o. Late
Ch.Nageswara Rao, Hindu, 40 yrs
R/o. Rajupet, Machilipatnam,
Krishna District.

..... PETITIONER

AND

1 Andhra Pradesh State Road Transport Corporation, Rep. by its Chairman and Managing Director,
Musheerabad, Hyderabad - 500 020.

2 The Regional Manager,
Satavahana Region, A.P.S.R.T.C.,
Vijayawada.

3 The Depot Manager, A.P.State Road Transport Corporation,
Gudivada, Krishna District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or directions more particularly one in the nature of Writ of Mandamus, directing the respondents to appoint the petitioner in any suitable post under the Bread Winner Scheme, declaring the action of the respondents as illegal and violative of Articles 14 and 21 of the Constitution of India and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.V.S.R.ANJANEYALU

Counsel for the Respondent Nos.1 to 3: MR.R.MANMATHA

REDDY,STANDING COUNSEL FOR APSRTC

The Court made the following:

ORDER

Heard Mr.V.S.R.Anjaneyulu, learned counsel for the petitioner and also Mr.R.Manmatha Reddy, learned Standing Counsel appearing on behalf of the respondents 1 to 3 and at their request, the main Writ petition is taken up for disposal.

The petitioner who claims to be the wife of the deceased employee of the 1st respondent corporation, and whose husband died on 31-05-1995 while working as Helper, filed this Writ Petition *inter alia* seeking a writ of Mandamus directing the respondents to appoint the petitioner in any suitable post on compassionate grounds.

The case of the petitioner is that soon after the death of her husband, she filed an application on 30-12-1995. But the same was not considered as she was not qualified. Subsequently, the petitioner acquired qualification and filed another application in continuation of the earlier application stating that she has acquired qualification and she is entitled for appointment on compassionate grounds and the same was dismissed on the ground that it is beyond the statutory period prescribed. Hence the Writ Petition.

Having considered the submissions made and on perusal of the record, the only question that falls for consideration is whether in the fact and circumstances, the petitioner is entitled to seek any compassionate appointment with the respondent corporation?

There is no dispute of the fact that the petitioner's husband was working as Helper with the respondent corporation and he died on 31-05-1995. There is also no dispute of the fact that the petitioner has filed an application on 30-12-1995 seeking appointment on compassionate grounds. However, the same was not considered and no orders have been passed. Though, according to the respondent, the petitioner was not qualified, but, later on, the petitioner acquired qualification and filed another application in continuation of earlier application and the later application was also rejected on the ground that it is barred by the period prescribed. Having regard to the facts and circumstances and especially the petitioner has filed her earlier application in time i.e., on 30-12-1995 and the same remained unconsidered and no orders have been passed for any rejection, it is not open for the respondent to raise a bar of limitation at this late hour especially when the petitioner knocked the door again after acquiring qualification to any suitable post to which she is entitled to. In the circumstances, it is to be held that the respondent would not take away the rights vested in the petitioner to seek such compassionate appointment when the earlier application remained unconsidered and when the petitioner acquired qualification. In view of the same, the petitioner is entitled for appointment on compassionate grounds.

The Writ Petition is accordingly allowed. The 2nd respondent is directed to consider the petitioner's case for appointment on compassionate grounds to any suitable post within a period of four weeks from the date of receipt of a copy of this order. No costs.

04-03-2005.

Hsd

That Rule Nisi has been made absolute as above.

Witness, the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Friday, the Fourth day of March, 2005.

Asst. Registrar

To

1 The Chairman and Managing Director,
Andhra Pradesh State Road Transport
Corporation, Musheerabad, Hyderabad - 500 020.

2 The Regional Manager,
Satavahalana Ragion, A.P.S.R.T.C.,
Vijayawada.

3 The Depot Manager, A.P.State Road Transport Corporation,
Gudivada, Krishna District.

4. 2 C.D. copies.